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Letter dated 25 October 2004 from the Permanent Representatives of Jordan, South Africa, Sweden and the United Kingdom of Great Britain and Northern Ireland to the United Nations addressed to the Secretary-General

We have the honour to forward the report of the Conference on Gender Justice in Post-Conflict Situations that was organized jointly by the United Nations Development Fund for Women (UNIFEM) and the International Legal Assistance Consortium (ILAC) from 15 to 17 September 2004 in New York (see annex). The Conference was co-chaired by His Royal Highness Prince Zeid Ra'ad Zeid Al-Hussein, Permanent Representative of the Hashemite Kingdom of Jordan to the United Nations, and Ms. Navanethem Pillay of the Republic of South Africa, Judge of the International Criminal Court. We would be grateful if the present letter and the report, prepared by the Conference Rapporteur on behalf of the co-organizers, could be brought to the attention of the members of the Security Council and issued as a document of the Council.

(*Signed*) Zeid Ra'ad Zeid **Al-Hussein**
Permanent Representative of the
Hashemite Kingdom of Jordan to the United Nations

(*Signed*) Dumisani Shadrack **Kumalo**
Permanent Representative of the
Republic of South Africa to the United Nations

(*Signed*) Anders **Lidén**
Permanent Representative of Sweden to the United Nations

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Annex to the letter dated 25 October 2004 from the Permanent Representatives of Jordan, South Africa, Sweden and the United Kingdom of Great Britain and Northern Ireland to the United Nations addressed to the Secretary-General

Report of the Conference on Gender Justice in Post-Conflict Situations "*Peace Needs Women and Women Need Justice*"

Co-organized by the United Nations Development Fund for Women and the International Legal Assistance Consortium from 15 to 17 September 2004

Overview of Gender Justice Requirements, Assistance Needed, and Best Practices

1. One of the most acute, but least prioritized, challenges of post-conflict societies -- where the United Nations often becomes heavily invested with peace operations, development projects, and human rights protection -- is how to achieve justice for women and girls who are victims during and long after armed struggles have occurred. This largest group of victims typically receives the smallest share of attention, resources, and justice in the aftermath of atrocities. "Gender justice" remains largely illusive to post-conflict societies, although some progress is being made. The term "gender justice" means far more than courtroom justice for prior crimes against women and girls. Gender justice encompasses equitable treatment and participation for women in the negotiation of peace agreements, the planning and implementation of UN peace operations, the creation and administration of new governments (including agencies and institutions focused on the needs of women and girls), the provision of the full range of educational opportunities, the revival and growth of the economy, and the fostering of a culture that enhances the talents, capabilities, and well-being of women and girls.

2. Gender justice, however, has not escaped serious attention at the United Nations. Four years ago, the Security Council adopted resolution 1325 (2000) which shone a very bright light on the need to mainstream gender justice and gender equality in conflict prevention, conflict resolution and peace-building processes, including all UN peacekeeping operations, and to ensure gender balance in UN leadership and decision-making posts. Security Council resolution 1325 also called for the preparation of a study on the impact of armed conflict on women and girls, the role of women in peace-building, and the gender dimensions of peace processes and conflict resolution. In response to resolution 1325, UNIFEM appointed Elisabeth Rehn and Ellen Johnson Sirleaf as Independent Experts to conduct an assessment on the impact of armed conflict on women and women's role in peace-building. As a complement to the Report of the Secretary-General on women, peace and security (S/2002/1154), UNIFEM issued their report entitled *The Independent Experts' Assessment on the Impact of Armed Conflict on Women and Women's Role in Peacebuilding* (Progress of the World's Women 2002/Vol. 1; see the UNIFEM website at http://www.unifem.org/index.php?f_page_pid=149). Although it was never formally submitted to and considered by the Security Council, the Independent Experts' Assessment, in Chapter 7 ("Justice"), produced observations and recommendations on gender

justice in post-conflict situations that merit continued attention by the Security Council and all Member States as well as other legislative bodies of the UN, regional organizations and civil society.

3. To help achieve this objective, the United Nations Development Fund for Women (UNIFEM) co-organized with the International Legal Assistance Consortium (ILAC) a three-day Conference on Gender Justice in Post-Conflict Situations, with the theme "Peace Needs Women and Women Need Justice", in New York City (15-17 September 2004). The Conference brought together women holding key legal and judicial positions from over twelve conflict-affected countries and regions as well as senior UN officials, Permanent Representatives of Member States, regional organizations, non-governmental organizations, academic institutions, foundations, and private entities. During the Conference, these critical national women stakeholders examined whether the gender justice aims of resolution 1325 are being implemented in national and international justice-related activities undertaken in post-conflict societies (including in UN peace operations); identified measures and actions needed to facilitate implementation of the Independent Experts' recommendations on justice; prioritized those measures and actions in view of local needs; and identified potential partners to assist with such implementation. These leading women, many at the ministerial level, gathered from across the globe, including from Afghanistan, Republic of Burundi, Democratic Republic of the Congo, Haiti, Iraq, Kosovo (Serbia and Montenegro), Republic of Liberia, Republic of Namibia, Rwandese Republic, Republic of Sierra Leone, Republic of South Africa, and the Democratic Republic of Timor-Leste. The Conference was co-chaired by Ambassador Zeid Ra'ad Zeid Al-Hussein, Permanent Representative of the Hashemite Kingdom of Jordan to the United Nations and Chairperson of UNIFEM's Consultative Committee, and Ms. Navanethem Pillay, Judge of the International Criminal Court.

4. The Executive Director of UNIFEM, Noeleen Heyzer, opened the Conference by recognizing the contributions of national stakeholders and cautioning that: "[I]n order for the international community to best respect and support local ownership of any such plan of action to achieve gender justice reforms, we need to forge a more coordinated and integrated web of partnerships to assist the national stakeholders. As emphasized in the Secretary-General's recent report on the rule of law and transitional justice in conflict and post-conflict societies [S/2004/616], the UN system, much less UNIFEM, does not have sufficient expertise or capacity to alone provide all of the required support. And so we must realize how essential it is for all of us to build and sustain strategic and complementary gender justice partnerships." Such expertise and capacity will need to be drawn from a range of international partners, including governments, regional organizations, academia, and non-governmental organizations, among others. A mechanism will need to be developed to ensure that the required range of knowledge and experience is available so that immediate assistance on gender justice issues can be provided to post-conflict societies seeking this support.

5. The participation of ILAC in the Conference offered the opportunity for a good beginning in this respect, as its member organizations represent over three million judges, prosecutors, and lawyers worldwide. The Executive Director of ILAC, Christian Ahlund, emphasized that one important aspect of rule of law is that its greatest value is to those who are weak and vulnerable, a category always dominated by women and children, but who are usually in no position to make their voices heard in shaping the institutions of a post-conflict society. He noted that, very often, the only recourse these

vulnerable groups have is with civil society and various non-governmental organizations that are typically run by women because the existing culture and norms in post-conflict societies normally exclude them from exercising influence in government institutions. The Conference thus offered an important opportunity for the international community to listen and respond to the needs and recommendations conveyed by the key national women stakeholders present.

6. Ambassador Zeid Ra'ad Zeid Al-Hussein commented at the outset of the Conference that gender justice still has a very long road to travel. He observed that only a relatively small number of people in each government, parliament, and international organization pay adequate attention to international justice, and even a smaller number pay attention to the gender requirements of international justice. Yet the pressure they must exert on the many within their own communities is considerable if they are to avoid being overwhelmed by the ever-existing inertia and cynicism of a larger bureaucracy. Ambassador Al-Hussein said it is not commonplace thinking in most countries to view justice as the *sine qua non* for all else that is to happen in a post-conflict situation. Once one moves beyond that community of sincere interest, inertia and resistance begin to creep back into the picture. Nonetheless, there is hope that the Conference and the follow-up to it, including discussion by the Security Council in late October 2004 as it observes the fourth anniversary of resolution 1325, will put gender justice squarely at the forefront of attention and action among Member States as well as the many other relevant bodies and partners which participated in the Conference.

7. This overview of the observations and recommendations that were made at the Conference on Gender Justice in Post-Conflict Situations is presented under ten main thematic sections, each divided into two parts: (1) priority gender justice concerns/requirements in the countries concerned and assistance needed, and (2) best practices in the gender justice area that have emerged in some of those countries. The contributions presented under each of these parts distinguishes between those made by *national* stakeholders and by *international* stakeholders at the Conference, with the primary focus on the former given that ownership of any justice initiative must rest with national players. The inter-related character of gender justice priorities does not lend itself easily to categorization: the requirements of security, education, criminal justice, judicial and legal reform, and economic, social and political empowerment all intersect either to exacerbate the particular barriers and problems of women and girls in a post-conflict society or to resolve those issues with the determination of well-informed governments, international organizations, and civil society. Nonetheless, a great deal of guidance emerged from the Conference that merits the serious attention of the Security Council, Member States and the many other international and national stakeholders concerned.

8. This overview draws liberally from the voices of experience heard at the Conference. But there has been no effort to independently validate the statements made at the Conference or in the written submissions of the Conference speakers and panelists. For illustrative purposes, a compilation of summary extracts from statements of various Conference speakers and panelists in the ten general areas of discussion can be found at UNIFEM's web portal on women, peace and security at http://www.womenwarpeace.org/issues/justice/gender_justice_conference.htm. The full text of the written statements provided by those participants can also be found at that site. The Conference agenda reflects the names and affiliations of all of the Conference speakers and panelists.

I. Reform of National Laws (including Customary/Traditional Systems of Law) and Constitutions to Address Discriminatory Practices and Gaps and to Advance the Protection of Women's Rights in Conformity with International Law

A. Priority Requirements and Assistance Needed

9. The gap between UN-endorsed international standards and national law on issues pertaining to gender justice remains wide in many post-conflict countries. The task is a daunting one, as it requires, at times, radical amendments to existing laws and the long journey often required for the drafting of new constitutions and of amendments to constitutions. This can be particularly difficult when the task is one designed to elevate to a level of equality women from a society in which they have seldom enjoyed that status and who arrive at the drafting table, if afforded the opportunity, victimized by the ravages of war and its immediate aftermath.

10. Maintaining the status quo of the legal system during the post-conflict period, when so much has changed and yet so much remains unchanged for the welfare of women and girls, can be a convenience many post-conflict leaders seek. But, for at least some period of time, the world's attention on the conflict and its aftermath highlights the weaknesses of the national legal system and demands change. In Sierra Leone, the Constitution still includes language that has discriminatory effect against women, including a provision excluding from the Constitution's anti-discrimination clause any law which makes provision with respect to adoption, marriage, divorce, burial, devolution of property on death or other interests of personal law. Iraq continues to have in force repressive laws from the previous regime concerning women. Outdated definitions for the crimes of rape, indecent assault and immoral conduct remain in the Penal Code of the Democratic Republic of the Congo. In Haiti, the laws in force, which are based on the Napoleonic Code, do not consider women as full citizens. While the 1987 Constitution does recognize the equality of men and women, its provisions are not reflected in the letter of the law. In Liberia, women's rights are not regarded as equal to those of men, who often have the final decision in the home and, in the case of divorce, have automatic custody of the children. Many of the discriminatory traditional practices toward women in Liberia stopped during the war as people were displaced. There was a hope among women activists that this would have ended some of the more harmful practices, but female genital mutilation, which virtually disappeared during the war, is now being revived. The women of Burundi do not yet enjoy in national law what their country has committed itself to in international conventions bearing on gender justice. Impunity still exists there, as with so many other conflict-affected countries, for sexual and domestic violence against women and girls.

11. Gender justice cannot be realized as long as countries continue to maintain laws that discriminate against women. While such gender-linked flaws in the laws exist in the absence of any armed conflict or post-conflict situation, the fact that they persist into the post-conflict period makes it extremely difficult to ensure the participation of women in critical transitional developments and emerging institutions and, more generally, their full integration and well-being in society. A large number of discriminatory laws explicitly perpetuate *de jure* discrimination with regard to personal status, marital status, violence against women, property ownership, and inheritance rights. The problem becomes particularly complex to unravel when codified law that may espouse equality co-

exists with a local customary law that discriminates against women. In Sierra Leone, for example, different marriage provisions co-exist in English, Islamic, and customary law, thus creating different rights for women in marriage depending on which law is applied and complicating the resolution of marriage disputes. Methods of divorce and intestacy inheritance rules differ according to the type of marriage.

12. Whenever laws perpetuate women's inequality, even when their language appears gender-neutral, they constitute discrimination in violation of international norms. As Judge Pillay noted, "Law is the most formal expression of government policy. Without legal protections, women have no recourse when they face discrimination that affects all aspects of their lives, including security, bodily integrity, family life, community status, and political, economic, and social prospects. Legal reform is needed to realize gender justice."

13. In recent decades, there has emerged an international legal framework of protection for the rights of women in human rights treaties and the criminalization of many types of gender violence in international conventions and the statutes of international criminal tribunals. These developments are hopeful, but the modernization of the law at the international level has not yet been fully mirrored in the national law of many conflict-affected states, thus appearing glaringly deficient in the post-conflict environment.

14. The remedy may seem self-evident: re-write the national law. Yet legal reform in struggling societies following war is no easy task. The people need to understand, and thus be educated about, why new law is required to protect the rights of women and girls. Codified law may need to be consolidated with customary law in a manner that adheres to international human rights and gender justice principles -- a task that could prove politically unachievable in the short term. International experts need to be engaged in identifying the gaps between international law and the relevant national law and then working with national stakeholders to strategize revision. Women need to occupy positions of influence and decision-making, namely as legislators, judges, and administrators, and, from those positions, address issues of gender justice in order to strengthen it in law and in institutions at the national level.

15. There thus remains an enormous challenge for countries, during post-conflict periods, to amend or legislate laws and constitutions that will end discrimination against women and protect and enhance the rights of and opportunities for women (e.g., as regards property ownership, inheritance, marriage). Local customary or traditional law, largely unwritten, often presents serious obstacles that must be confronted. Special attention should be paid, both by national bodies in post-conflict countries and by international partners providing support and assistance, to incorporate into national law those standards and objectives already set forth in Security Council resolution 1325 and recommended in the Independent Experts' Assessment. Technical assistance and financial help from bilateral and multilateral donor entities are needed to enhance work on gender justice and make it easier for post-conflict governments, such as in Sierra Leone, to embark on needed reforms. The Partners for Gender Justice Initiative, described in Section X, should offer a means to generate useful collaborative and complementary partnerships that bring the desired expertise and resources to bear on legal reform endeavors. As legal reform unfolds, it will achieve its greatest potential provided

massive education programs about gender-based violence and newly adopted or strengthened legal norms are undertaken by post-conflict governments, in consultation with and with the active support of civil society organizations, such as women's groups, as well as UN peace operations, UNIFEM and other UN agencies in the field. As emphasized by the Attorney General of Namibia, Ms. Pendukeni Iivula-Ithana, "the vital roles of the education and research cannot be over-stressed".

B. Good Practices

16. Despite the long distance still to travel in post-conflict countries for comprehensive and effective reform of national law to incorporate gender justice principles, there are many examples of transformational work underway that demonstrate the potential for overall progress in this field. Kosovo has adopted several legislative acts aimed at achieving gender justice, including in the Constitutional Framework of Interim Self-Management in Kosovo. Timor-Leste's Constitution contains equal rights provisions for women, while the draft domestic violence law and draft penal code promise important reforms supportive of gender justice. Article 22 of Afghanistan's new Constitution provides that any kind of discrimination is prohibited against any Afghan citizen, but it remains under-utilized to argue for equal rights among women and men.

17. Namibia has been one of the most progressive examples of national legal reform in the interests of gender justice. Article 23(3) of the new Namibian Constitution prepared in 1990 includes a historic recognition of the requirements of gender justice, particularly policies of affirmative action for women: "In the enactment of any policies and practices…it shall be permissible to have regard to the fact that women in Namibia have traditionally suffered special discrimination and that they need to be encouraged and enabled to play a full, equal, and effective role in the political, economic and cultural life of the nation." The Government also created the Law Reform and Development Commission to review all legislation inherited at independence, with particular focus on the exercise of individual freedoms. Seven major new laws were drafted and adopted that have contributed significantly to minimize cultural and institutional gender-based discrimination.

18. During the last ten years, South Africa has experienced one of the most remarkable shifts in policy and law advancing the rights of women. Equality provisions in the Constitution, equality legislation prohibiting discrimination on the basis of race and gender, and equity laws all affirm gender and race as key criteria in both public and private sector employment. But there remain major shortcomings in the actual implementation of these impressive laws. Burundi has legislated equality provisions in various laws and in the Transitional Constitution. The new draft constitution and draft electoral code are expected to go further and require that 30 percent of posts in government institutions be held by women. The Arusha Agreement calls for major reforms pertaining to gender justice, such as the correction of imbalances in the justice sector that discriminate against women, the training of judges, the creation of accountability bodies to judge past crimes, and a review of relevant legislation. Other actions by the Government of Burundi are encouraging. But implementation of gender justice throughout society remains sporadic. The Special Representative of the Secretary-General and Head of the United Nations Operation in Burundi (ONUB), who is a woman, is leading ONUB's efforts to encourage a greater role for women in government institutions and processes, including by supporting the demand of Burundian women for a 30 percent quota for elected offices

(currently in the draft Constitution), developing an affirmative action policy to promote women's participation in the elections, and assisting with a gender sensitive training curricula for the police academy with a focus on human rights and women's rights.

19. The new Afghan Constitution, approved by the *Loya Jirga* in January 2004, contains measures that favor the safeguarding of the rights of women. A Gender and Law Working Group, supported by UNIFEM and specially created for the drafting of the Constitution, recommended such measures. Two draft laws will have a major impact on protections for women: the new juvenile justice code and the new penitentiary law. A new Interim Criminal Procedure Code fully in line with human rights provisions and international standards is already in force. The Afghan Government has ratified the Convention for the Elimination of All Forms of Discrimination Against Women (CEDAW), but implementation will require further legal reforms. While Afghanistan has made considerable progress, it still struggles with the influence of local customary law and practice and lack of education among women and men about the legal rights protected in new law.

II. Ending Impunity for Crimes Against Women and Creating an Environment of Accountability, Reconciliation and Tolerance: Establishment of More Gender-Sensitive Justice and Transitional Justice Mechanisms and Provision of Reparations and Rehabilitative Services to Victims

A. Priority Requirements and Assistance Needed

20. Impunity for gender crimes continues to prevail in post-conflict societies and will likely never be completely eliminated given the shortcomings of international and national justice. The commission of gender-based crimes during and after armed conflicts, including those that contribute to genocide, crimes against humanity, and war crimes, does not lend itself easily to investigations and prosecutions either at the national or international level. Crimes against women and girls often occur outside public view, with multiple offenders, and within family structures. The sense of humiliation and ostracism that descends on the female victims of gender-based crimes further complicates the effort. Because of financial and human resource constraints faced by war-ravaged countries in addressing situations of widespread violations, the vast majority of perpetrators are not brought before national, or for that matter, international tribunals. Rwanda is the starkest example of a resource-poor judicial system straining to address genocide and other wartime crimes far too numerous for international prosecutions. Due to overwhelming potential caseloads, international criminal tribunals relegate most of their investigative and prosecutorial work to those suspects who bear the greatest responsibility for planning and executing the crimes. That often leaves free thousands, indeed tens of thousands, of perpetrators that national prosecutors and courts are supposed to bring to justice in keeping with an ideal vision of accountability.

21. Several themes persist at the national level, as vividly conveyed by the many national stakeholders at the Conference. The perpetrators of heinous crimes are often rewarded with state power and high-profile jobs as a result of a negotiated peace agreement. But transitional justice is critical to the reconciliation and healing process. Too often, too much attention is paid to the rehabilitation, restoration, and integration of perpetrators, ex-combatants, and alleged war criminals at

the expense of the victims. Perpetrators are often given resettlement packages and opportunities for academic or vocational pursuits, while female war victims, who are often left homeless, widowed, orphaned, or disabled, as well as sexually abused and ostracized, are left to sort out their lives without any compensation or reparation. In Burundi, women remain concerned about the persistence of prevailing impunity and also by the impunity institutionalized by various political agreements. It is feared that relevant provisions of these agreements could be transformed into amnesty measures covering heinous crimes perpetrated against women, such as rape.

22. In Sierra Leone, the practice of treating rape and crimes of sexual violence as matters to be settled between families, often by the payment of money, has contributed to such crimes not being taken seriously. The legal system continues to treat rape and crimes of sexual violence as "honour" crimes. Such obstacles to gender justice need to be removed through persistent efforts at thorough reform of national laws and civic education. In Haiti, rape is becoming widespread during criminal acts. From July 2000 to June 2004, of 244 patients received at the victims of sexual violence unit of the GHESKIO Centres, 63 percent were school girls; 47 percent had been assaulted at home; 45.3 percent of the cases involved two to five rapists; 75 percent of the victims had been threatened with a firearm; 35.6 percent of the victims had reported the incidents to the police; and 85 percent of the victims did not know their attacker(s). Urgent legal action needs to be taken, and the Ministry for the Status of Women and Women's Rights is addressing the issue under its project to review and update existing and proposed legislation.

23. Victim and witness protection, particularly relating to the prosecution of gender-based crimes, remains critical to the success of prosecutions of perpetrators, and yet very few resources and very little expertise are allocated for these key requirements. This has been true, for example, in the Democratic Republic of the Congo, Sierra Leone, and Haiti.

24. There remains deep concern in such countries as Timor-Leste, the Democratic Republic of the Congo, and Afghanistan that crimes committed against women in earlier periods of armed conflict may never be prosecuted. These older crimes, sometimes stretching back a decade or so, remain a high priority for justice in these societies even if the international community has largely forsaken them in order to prioritize prosecution of far more recent crimes.

25. Women and adolescent girls can fall into deep depression and even commit suicide as a consequence of gender-based crimes and the failure of the legal system to address them properly and speedily as well as the lack of adequate medical and psychological support and treatment. This has occurred with alarming frequency in Kosovo, where there is a critical need for more consultancy and advice bureaus, including in rural areas. The silence of the courts on the widespread violations of women's rights in Afghanistan, because many judges believe it is the right of the family to control its women members, leads to many self-immolations and other forms of suicide among women. This psychological trauma must be addressed directly by the infusion of trained medical personnel, establishment of medical facilities and support services, education of judges and lawyers about women's rights, and legal reform, particularly with respect to the influence of customary law, that will all contribute to removing the cause for such despair and hopelessness.

26. One of the most important long-term objectives should be the creation of a culture of tolerance in post-conflict societies. Legal reform can promise to be a major impetus for changing attitudes and the conduct of men towards women, but sometimes it takes much more. For example, there remains an alarmingly high preponderance of risk of violent victimization of women in Namibia and southern Africa today. Although a legal framework is necessary, the creation of a culture of tolerance should be emphasized. This culture should be fostered at all levels of political and social life. Namibia -- with many women among the top ranks of the judiciary and other government institutions -- has striven to address the problem with important initiatives in government agencies, new laws, a vibrant Constitutional jurisprudence, and education and research to ensure that the Constitution is understood by the public at large. However, as noted by Namibia's Attorney General, "the mere existence of such instruments will be worthless without the effective enforcement in a society that has, as its foundations, the respect for human dignity." Legal reform can help minimize such intolerant, discriminatory and violent behavior towards women, but sustained political leadership -- with women among the ranks -- committed to gender justice in society at large can also make a substantial difference.

27. Recognizing that men are better empowered in many post-conflict societies to promote gender equality, there should be greater outreach and education efforts focusing on men and boys. The United Nations should be more active and visible in cultivating constructive male attitudes in societies where tradition and customary law and practice so heavily fortify stereotypical views about, and unequal roles for, women. This may call for a major initiative directed towards changing the attitudes of men and boys through intensive and widespread educational programs.

28. The return of corpses of loved ones and the determination of the fate of those who remain missing are critical priorities to survivors, particularly women, in post-conflict societies. However, efforts to discover and then recover the remains of conflict victims are typically resource-starved, under-prioritized by the international community, and regarded as an after-thought. But the return of the deceased or the detainees is profoundly important to survivors as a symbol of personal justice and closure. This has been particularly true in Kosovo, Iraq, and Afghanistan, but elsewhere as well.

29. The transformation of national legal systems has lagged far behind the creation of international criminal tribunals, despite the overwhelming need for domestic justice with regard to tens of thousands of alleged perpetrators of genocide, crimes against humanity, or war crimes. In addition to the fundamental challenge of creating some kind of judicial and/or non-judicial accountability mechanism, there is the additional task of ensuring that gender justice is understood and incorporated into any such mechanism. Despite many deficiencies and obstacles at the national level, it remains important that prosecution of gender-based crimes occur at the national level to the greatest degree possible. For example, due to domestic responsibilities, women might find it difficult, if not impossible, to participate in foreign proceedings far from their homes and families.

30. To facilitate the transformation of national legal systems, substantial and long-term assistance from the international community remains critical for governments and women in post-conflict societies. This includes long-term judicial training for local judges, prosecutors, and public defenders in such post-conflict societies as Timor-Leste, Kosovo, Haiti, Sierra Leone, and Afghanistan. Much

more legal capacity needs to be developed in post-conflict societies, including among women, in order to investigate and prosecute sexual-related crimes committed prior to the armed conflict or during the post-conflict stage.

31. The international community needs to assist women who seek access to reparations and rehabilitation services, particularly to fight HIV/AIDS and Vesico Vaginal Fistula (VVF). Experts in trauma healing are needed for many women in conflict-affected situations, including in Sierra Leone, eastern Democratic Republic of the Congo, and Burundi.

32. The United Nations needs to consider far more constructively how to help support or establish accountability mechanisms tailored to the unique requirements of each post-conflict situation, taking account of the need for adequate consultations with national stakeholders (including women victims) and a sense of national ownership of such initiatives. It needs to develop an appropriate policy framework for transitional justice institutions, particularly truth commissions, and apply core minimum standards to make these institutions acceptable. Gender-based violations must be included in the mandates of truth commissions, which should include gender experts and seek balance for women in their memberships. Some recent commissions have established databases which allow them to collect data and analyze it with the aim of making specific findings of accountability and also to collate statistics on the violations affecting women, which is critical for further investigations and the development of policies to address the needs of victims. However, such commissions often face the constraints of being under-funded, under-staffed and under-resourced.

33. The United Nations also needs to examine the justification for and resource requirements of various judicial and non-judicial options (including national or international courts, truth and reconciliation commissions, and historical commissions). The United Nations lacks a clearly formulated approach for examining the full range of judicial needs and how to arrive at a balance between international justice and national justice in any particular post-conflict context. Nor is there any policy or methodology for seeking to account for crimes committed prior to the armed conflict which could allow for some form of judicial redress for the surviving victims. For example, in the Democratic Republic of the Congo, there remains a critical need to investigate and prosecute human rights violations committed against women during the wars of 1968 and 1996, but almost nothing is being done to accomplish this. Developing such approaches and methodologies should be a primary UN objective.

B. Good Practices

34. After more than a decade of dynamic growth in post-conflict justice mechanisms, almost all of which include progressive elements of gender justice, there has developed a rich menu of options which national and international stakeholders can consider, although much depends on the circumstances and needs of a particular situation. In Namibia, public hearings and workshops to address the plight of women have been held under the auspices of the Law Reform and Development Commission. Specialized centres have been established to deal with victims of abuse and violence. The introduction of victim-friendly sexual offence courtrooms and related amendments to the Criminal Procedure Act have been important steps to allow victims of sexual violence to testify

against the accused person without being exposed to secondary victimization. The introduction of the Combating of Rape Act and the Domestic Violence Act all form part of the Government's initiative to address the scourge of violence against women and children.

35. While the Government of the Democratic Republic of the Congo requested the Prosecutor of the International Criminal Court to investigate recent atrocities in the eastern part of the country, it also has made some notable attempts to generate local initiatives. For example, the Ministry of Human Rights, led by a woman, recently organized a roundtable on strategies to end the culture of impunity in the country. One of the primary conclusions of the roundtable was the urgent need to bring to justice the perpetrators of massive violations of human rights, particularly those committed against women, as well as the need to compensate the women concerned. The Government also restored some of the judicial system in Ituri in January 2004 with international help and with the result that some suspects have been tried and convicted or are undergoing trial, notably for cases of rape. In May 2004, the Minister of Human Rights launched a multi-sectoral mission in which 119 women, victims of rape and other abuses committed by soldiers in Bongadanga and Songomboyo in Equateur Province were able to bring their cases before the judges of the Military Prosecutor's Department. They continue to lack sufficient logistical support, however.

36. A good example of a partnership between national and international entities also occurred in the Democratic Republic of the Congo in December 2003, when a joint initiative to combat violence against women and children was launched with the support of the United Nations Population Fund, UNIFEM, United Nations Children's Fund, and other agencies. The initiative involves the national government and non-governmental organizations together with these UN agencies. Its overall objective is to implement an inter-agency, multi-sectoral programme to prevent and respond to sexual violence against women and children, and includes a designated mechanism for the tracking and reporting of cases based on effective cooperation. ONUB will lead a campaign to end impunity and address mass rapes and sexual violence, including support for the revision of the Penal Code and the draft of new legislation on rape and sexual abuse.

37. Truth and reconciliation commissions remain attractive non-judicial mechanisms following the relative success of the South African Truth and Reconciliation Commission in the 1990s. But the inclusion of gender violence and abuse in the mandates and procedures of such commissions remains problematic. Progress, however, is reflected in Sierra Leone's truth and reconciliation commission, which interprets its enabling language on "violations and abuses" to include gender-based violations. Its enabling act explicitly urges the commission, in Section 6(2)(b), to pay special attention to "the subject of sexual abuses and the experiences of children within the armed conflict". In the newly-created truth and reconciliation commission in Burundi, ONUB is promoting a fair gender balance in its composition. If the truth and reconciliation commission in Burundi functions effectively, then the atrocities suffered by women during the war are more likely to be included as part of the history of the country and the perpetrators will accept their role in committing such crimes. As recommended by Ms. Yasmin Sooka after serving in the truth and reconciliation commissions of South Africa and Sierra Leone, it should be ensured, in setting up such transitional justice institutions, that no less than half the Commissioners are women and that a gender expert is appointed at the level of either the Commission or the body's secretariat.

38. Rwanda's *gacaca* process of local justice and reconciliation -- arrived at as a pragmatic means to deal with over 100,000 suspects from the 1994 Rwandan genocide -- does not supplant the national courts' power to prosecute genocide and crimes against humanity of leading perpetrators. A special feature of the *gacaca* process is that women have been called upon in large numbers to take an important part in its work, some as witnesses, some as lay judges, and some as defendants cooperating with procedures, particularly through confessions. The Executive Secretary of the national Gacaca Courts Service is a woman. As novel and imperfect as the *gacaca* process may seem for the circumstances of Rwanda, it demonstrates that innovative thinking and awareness of historical precedents can help shape accountability mechanisms that address gender-based crimes in the context of armed conflicts or atrocities, albeit occasionally in unconventional ways.

39. At the international level, the International Criminal Court (ICC) is establishing definitions of gender-based crimes and standards of investigation that offer great hope for gender justice. In addition, the Rome Statute of the ICC requires gender-balanced recruitment policies and seven women judges were elected to the 18-judge Court. The International Criminal Tribunals for the Former Yugoslavia and Rwanda raised the standards of accountability for crimes of sexual violence against women, clarifying definitions of sexual violence and recognizing it as a weapon of war (including rape as an act of genocide). The Rome Statute of the ICC raised the standard even higher with its precise definitions for gender crimes within the categories of crimes against humanity and war crimes. However, one troublesome definition in the Statute regarding the crime of slavery has serious implications for what range of crimes of sexual violence may be investigated and prosecuted by the ICC. While the Statute includes definitions of sexual violence in the subject matter jurisdiction of crimes against humanity and war crimes, it is hoped by some that the Court will gravitate towards a broader definition of slavery so as to embrace that developed by the International Criminal Tribunal for the Former Yugoslavia for the crime of sexual slavery as pronounced in the *Foca* judgment. That broader definition emphasizes control of the victim for purposes of repeated acts of rape rather than, as in the Rome Statute, focusing on economic ownership, which can greatly narrow the possible targets of investigation.

III. Rehabilitation and Reform of the Judicial Infrastructure, Institutions (including Staffing and Service Conditions), and Processes to Enhance the Involvement of Women and their Access to Justice

A. Priority Requirements and Assistance Needed

40. Building an effective infrastructure for a post-conflict national judicial system -- from adequately furnishing courtrooms and constructing prisons to strengthening the capacities of judges and eliminating corrupt practices -- is essential to advance the objectives of gender justice. In post-conflict situations, women typically have limited opportunities and encounter substantial obstacles to access the judicial system and, therefore, there is a need for a working and open judicial system if they are ever to enjoy equal access. Sooner than later, women need to be part of the design and decision-making process of such a system. But plans to finance the rehabilitation and reform of such national judicial infrastructures -- irrespective of the dire need of the resource-strapped, war-ravaged countries concerned -- remain very difficult to sell to the legislative appropriators of potential major donor

states. However, if that political and psychological logjam could be broken, or at least dented, in major donor capitals, there are a great number of judicial infrastructure projects awaiting attention. For example, the provision of defense counsel, and helping finance their work, is generally unattractive as a funding opportunity for donor governments and institutions. But it is essential for building a viable judicial system and merits far more financial support.

41. Much-needed resources for judicial accountability, from office equipment and courtroom facilities to translation services and training of local judicial officers, remain grossly lacking in practically all post-conflict societies. In Timor-Leste, there are serious and persistent language and translation problems in judicial work, as well as a serious lack of office equipment and other support facilities. Where there are multiple languages in use for the benefit of national and international investigative and judicial actors, serious impediments can arise in the efficiency of judicial proceedings. Also in Timor-Leste, the vast discrepancy between facilities and resources available to international legal personnel and those available to national legal personnel financed by the Government has led to declining morale and resentment among the latter.

42. The restoration and rehabilitation of the judicial system in the Democratic Republic of the Congo, as with that of Timor Leste, Kosovo and Liberia, will require such measures as the rehabilitation of the physical infrastructure (buildings, law libraries), the strengthening of the capacities of judges (training, retraining, and advanced training), the improvement of social conditions (wages, accommodation, transport), and the elimination of certain harmful practices (corruption, failure to take responsibility). Greater participation by women at all levels of the decision-making process, including in the justice sector, is needed in the Democratic Republic of the Congo. Sufficient participation by women victims in the various mechanisms involved in the compensation process also would help free the women who have been reduced to silence by their feelings of shame and give them confidence that their situations will be properly addressed.

43. In Burundi, financial and technical assistance is sorely needed to ensure that judicial services can continue. It is encouraging that one source of funding, the World Bank, stepped forward and financed preparations for a major forum on the reform of justice in Burundi. Corruption in Liberia, fuelled by the conflict, has permeated every walk of life, including the justice system. Strong international pressure on Liberian Government officials to remove corrupt influences will be essential. Raising the salaries of the civil service and ensuring that civil servants actually are paid, perhaps with targeted international financial assistance, could help diminish the temptations of corrupt practices. Afghanistan could use more international financial and technical support for legal assistance and information services for women, particularly since the majority are illiterate, spread throughout rural areas, and have little or no information about their rights. Similar support is required in Haiti, where the worsening economic plight of women has a significant impact on their knowledge about and ability to access the judicial system. The Ministry for the Status of Women and Women's Rights is pursuing two basic programmes on protecting and promoting women's rights and gender mainstreaming, but both need sustained cooperation and assistance from national and international partners.

B. Good Practices

44. A small but important step in reforming the judicial infrastructure of post-conflict/transitional societies is to establish percentage quotas for women to be hired for emerging judicial bodies. South Africa and Rwanda stand as models among countries for significant female participation in high positions in the judiciary as well as in other branches of government, industry, and universities (see para. 52). Lessons learned from those experiences could well be applied elsewhere. In the case of South Africa, its success has been possible because: (1) There is political will and commitment on the part of the government to give effect to the gender-friendly Constitution, which drew from progressive laws in other countries; (2) There are partnerships with progressive individuals and organizations around the world to avoid losing time with re-inventing the wheel; (3) The Constitution is grounded on human rights principles and the Constitution is supreme over the laws of the land and the acts of Parliament, and the system benefits from the appointment of enlightened judges with human rights backgrounds; (4) Women worked cooperatively together to achieve gender equality in the Constitution and elsewhere; and (5) There was a sustained level of commitment to make gender justice a reality.

45. In Rwanda, new policies have been formulated and are being implemented to enable women to play a predominant role in the justice system. Until recently, women in Rwanda were for the most part passive spectators or conscious or unwitting victims. After the 1994 genocide, women in Rwanda banded together in mutual assistance associations, first to reconstruct their lives and later to call for and assist the process of justice, which is the phase currently underway. Women now occupy high positions in the judiciary. The Government has provided women with the requisite guarantees to ensure that they obtain the justice they need to succeed in enjoying a lasting peace, and has demonstrated its intention to accord women their proper role in the building of justice and peace.

46. In Afghanistan, the new Constitution provides for a right to defense counsel and the provision of one if the defendant does not have the ability to pay for such counsel. The Women Lawyers' Association held a training session, supported by UNIFEM and the Asia Foundation, for new graduates of the Faculties of Law and Sharia'h so that they can act as defense counsel to needy women. Despite the fact that, in Timor-Leste, there continue to be various systemic flaws in the judiciary that are not favourable to women's attainment of justice, some important steps forward have been taken in formalizing a legal framework from which to defend and ensure women's rights. Timor-Leste's Constitution contains various provisions on equality between women and men. There are clauses on non-discrimination (Article 16) and equality between women and men (Article 17), as well as clauses which mandate the state to promote equality between women and men and which condition the attainment of democracy to the full and equal participation of both women and men (Article 65). Article 9 of the Constitution provides for the applicability of international law over national law in Timor Leste where national law contravenes international law. Timor-Leste has also ratified, without reservations, CEDAW and its Optional Protocol and is currently preparing reports under those treaty instruments.

IV. Increased Employment of, and Specialized Training for, Women Judges, Prosecutors and Lawyers (including as Defense Counsel) as well as the Provision of Legal Education and Assistance for Female Citizenry

A. Priority Requirements and Assistance Needed

47. Given the often-deficient level of educational opportunities afforded to women and girls in societies at the pre-conflict stages, education is the key to any progress for women and girls in a post-conflict society. Without timely, proper and equal educational opportunities, the chances are much greater for continued discrimination and abuse of women that undermines the rule of law as well as perpetuates the under-utilization of skills and capacities of half of the population. Education informs women and girls of their rights and empowers them in the critical early stages of a post-conflict society, and opens the door to their participation in economic and public life. The long-term goal of changing societal attitudes and pre-dispositions about the roles and capabilities of women, particularly among the male population, merits sustained and strong support from international donors.

48. That said, one of the most distressing realities about prospects for gender justice in post-conflict societies is the rudimentary process so far undertaken, particularly by national bodies, to educate girls and women about the legal culture and their fundamental rights. Isolated programs exist and some women are benefiting from them. But years of greatly expanded basic education and judicial training will need to transpire before the international community can begin to de-prioritize this issue. In the meantime, far more funding will be required from donor governments to support the basic educational needs of girls and young women, university curricula development, training missions for aspiring women lawyers, and technical assistance to help train the trainers for the long term.

49. In Afghanistan, the Democratic Republic of the Congo, Liberia, Kosovo, Haiti, and Sierra Leone, there are critical needs for judicial training for women and for education at large, including education about gender justice. In Sierra Leone, some women still think their husbands have a right to beat them and that this is a sign of how much husbands care. Women need to understand and be convinced that gender-based violence should not remain concealed in the family. Resources and technical assistance are required in Sierra Leone to strengthen the efforts of non-governmental organizations trying to meet such objectives.

50. More education on gender justice is required throughout Afghan society and the law enforcement system, and international funding will need to be found to ensure it happens. Support is needed for legal services to many women in Afghanistan who get trapped in multiple marriages and are unfairly incarcerated. In Liberia, the lack of prosecutors (including women) makes it impossible to deal with the rising sexual- and gender-based violence, a seemingly inevitable consequence of post-conflict situations which must be reversed with well-funded training programs and adequate support for the needs of prosecutors and the judicial system in general. In Timor-Leste, national judicial officers have been thrust into positions for which they lacked any experience or prior training, and short-term training exercises have proven insufficient. There is a critical need in Timor-Leste to implement long-term judicial training for such judges, prosecutors, and public defenders.

B. Good Practices

51. Despite the critical needs that persist in Afghanistan, there has been impressive progress in the number of women who have become professional prosecutors and members of the High Council of the Supreme Court. But they have not fared well in terms of being placed in high government positions. Italy has set up specific programs in the legal field in Afghanistan which focus on training for new female law school graduates, including women's rights courses in training curriculum, and encouraging women's participation in the selection of judges, prosecutors and lawyers. Italy also has created legal aid centers outside Kabul for women in trouble with the law or who for any reason need to exercise their rights in a legal forum. UNIFEM has provided technical and financial support for seminars and training courses for women, organized by Afghan women's associations, which seek to raise awareness of gender justice issues.

52. In Rwanda, women now have a major role in the justice sector, as with almost all other key sectors of national life (legislature, armed forces, police, diplomatic service). Women have been appointed as President of the Supreme Court, the highest office of the judicial system, and as the Minister of Justice. In addition to entrusting the overall coordination of the *gacaca* courts to a woman (Executive Secretary of the national Gacaca Courts Service), many women have been chosen as lay judges in *gacaca* courts. Women also hold about 35 percent of the judgeships in the conventional courts. Among the courts of the provinces and the City of Kigali, the High Court of the Republic, and the Supreme Court, 45 of 129 judges (35 percent) are women. Furthermore, the Vice-President of the High Court is a woman; four out of the 12 presidents of the courts of the provinces and the City of Kigali are women; and three of the 11 prosecutors at the national level are women. These figures give a positive glimpse of the significant role that women are playing in the process of justice and what Rwandan justice will be like in the future.

V. Establish/Strengthen Government Institutions, Mechanisms, Policies and Strategies, as well as NGOs/Civil Society Organizations, to Specifically Focus on Redressing Gender-Based Disparities, Supporting Women's Needs and Advancement, and Increasing their Participation in Transitional Institutions and Processes (Political, Legislative, Electoral, Economic Reconstruction)

A. Priority Requirements and Assistance Needed

53. Gender justice cannot be successfully pursued on a daily basis in a society emerging from conflict unless governmental institutions, mechanisms, policies, and strategies are devised and then implemented with strong political commitment by the national government and, when necessary, with adequate financial and technical support from international donors. That process will not unfold, however, unless women are enfranchised and assume positions of authority in government, the courts, the professions, and society at large. That can become a generational challenge. But for the early months and years of the post-conflict period, concerted efforts have to be made, with international pressure and support, to ensure that women are not marginalized in the critical institutions and decision-making processes that help frame how a post-conflict society addresses and protects the rights of all of its citizens. It remains critical to adequately support the work of non-governmental

and other civil society organizations which are the backbone of effective on-the-ground implementation of gender justice objectives. The presence of a UN peace operation also can be used to encourage such support and apply leverage, when necessary, on governments.

54. At least four post-conflict societies -- Liberia, Kosovo, Haiti, and Burundi -- have seen women's participation in the electoral and decision-making processes fare rather poorly. Although Liberian women have and continue to play vital roles in the search for peace in the aftermath of the civil war, they are marginalized and under-represented in key decision-making positions. For example, only four women are in the 76-member National Transitional Legislative Assembly, which has become a classic example of the endemic inequity in the country's governance process. In Kosovo, although a quota system of 30 percent was introduced in the lists of candidates to be elected for central institutions, only 33 among the 120-member Parliament (27 percent) are women. While 28 percent of the municipal assemblies are comprised of women, only one of the 30 heads of the municipalities is a woman. Of the 10 ministers in Kosovo, only one is a woman, and, of the nine permanent secretaries, only one is a woman. Women's participation also falls far short of what it should be in Haiti, where only two of the nine members of the Electoral Council are women and none of the 15 members of the court of cassation is a woman. Only a very small number of women have been appointed to key governmental positions in Burundi. It also should be noted that, in Afghanistan, there are only two women among the 32 ministers of the Cabinet.

B. Good Practices

55. In recent years, there have been significant achievements in some post-conflict countries. Over 40 percent of the members of the Independent Electoral Commission of the Democratic Republic of the Congo are women. The pro-democracy commissions created in the Democratic Republic of the Congo require at least 30 percent of the members to be women. The Congolese Human Rights Monitoring Centre was created to take legal action in all verified violations of human rights and to ensure respect for the human rights of vulnerable groups or individuals, including women. In 1999, the Ministry for Women's Affairs and the Family launched the National Programme for the Promotion of Congolese Women to prepare women for elections. However, it requires financial and technical support to function effectively.

56. Sierra Leone adopted, in 2001, a National Policy on the Advancement of Women and a National Policy on Gender Mainstreaming, which are intended to cultivate better understanding of gender issues among society. A Family Support Unit of the Sierra Leone Police Force (FSU) has been established to investigate and combat sexual and physical abuse of women and children, and is now present in almost all police local command units throughout the country. The presence of the Unit's personnel, together with an awareness campaign, has enabled more women to report cases of sexual abuse. During 2003, the Unit received 3121 sexual and physical violence reports which were investigated. In Iraq, the establishment of the Advisory Committee of Iraqi Women in 2003 to lead and guide the women's network, comprised of some 80 women's organizations from throughout the country, was a significant accomplishment to seek to protect and guarantee equal rights and opportunities for women. In fact, that network was instrumental in obtaining the repeal of Decision No. 137 passed by the former Iraqi Governing Council that sought to dissolve the Personal Status Law

No. 188 (1959), and successfully lobbied for the Interim Constitution to reflect a target for women's representation in political and decision-making roles which was eventually set at no less than 25 percent.

57. In Kosovo, there have been many efforts by women's organizations, with the support of UNIFEM, to increase the inclusion of women in the decision-making processes of the mechanisms of government. A broad network of local non-governmental organizations has been established, including the Kosovo Women's Network (consisting of 50 NGOs) and the Kosovo Women's Initiative. Partly as a result of such efforts, several institutional mechanisms have been established in Kosovo to promote gender justice, including the Parliamentary Commission for Gender Equality, the Office of Good Management and for Gender Issues, the Inter-ministerial Group for Gender Issues, the Municipal Officials for Gender Equality in Kosovo municipalities, and Committees for Gender Equality in 15 municipal assemblies. In Namibia, women are now represented at all levels of the civil service and hold impressive, albeit still insufficient, numbers of positions in the National Assembly and senior government offices. Since independence, there has been a dedicated department in the Office of the President of Namibia giving a high profile standing to the issues of women. The department's work brought about fundamental change to the status of women in Namibian society within a period of 14 years, although more can be done. Rwanda has a world record for women members of parliament, namely, 49 percent (also see para. 52).

58. In Haiti, the Ministry for the Status of Women and Women's Rights has recently established a roundtable comprised of national and international organizations for preventing and addressing violence against women. The roundtable is supported by UNFPA, UNICEF and CIDA. The objective of the roundtable is to coordinate action to be taken to address violence against women.

VI. Improving the Socio-Economic Position of Women to Enhance Utilization of their Skills and Participation in Public and Economic Life (including in Transitional Institutions and Processes): Need to Address Factors Preventing Equal Access to Basic Public Services (e.g., Education, Health Care) and Economic Opportunities

A. Priority Requirements and Assistance Needed

59. Because the status of women and girls prior to the war usually is so poor, and given the unique opportunities that arise in a transitional post-conflict situation to rectify this situation, the objective should be to achieve a much higher standard of living and influence for women and girls after the war. This means women should enjoy full participation in the economy and in the government, particularly in legal and judicial institutions, and also secure high-level decision-making positions, which would thus enable them to influence decisions that directly affect the welfare of women and children. Women must achieve higher percentages of representation in newly-formed legislative bodies as well as reform commissions and bodies (for example, legislative, judicial, constitutional, electoral) of post-conflict countries.

60. Burundi offers a good example of what is required to leap over the socio-economic barriers that often confront women in a post-conflict situation. In Burundi, women's main concerns in achieving justice center on securing guaranteed rights to return, to resettle in their community of origin, and to recover their property; access to basic public services; prosecution of offences committed against women; legal recognition and protection of their civil and political rights; and participation in public and economic life as equal partners to men. Yet this remains extremely difficult in the face of a hostile environment, an uncooperative administration, and inaccessible judicial services. Now women are faced with men exercising a right of polygamy that had been formerly banned, with the well-known consequences: HIV/AIDS, impoverishment, and family abandonment. Having been used as weapons of war, women have suffered every kind of sexual abuse.

61. Women have had to fight hard, in fact too hard, to be represented, albeit still in unacceptably low numbers, in interim and transitional administrations. Women's access to and representation in high governing bodies must be greatly improved and receive the support of the United Nations and governments. In Iraq, women also need special supporting programs to assist those who suffered violence and abuse as well as forcible deportation during the previous regime, including the many whom are widows, homeless, and orphans. They need international assistance to help them rehabilitate and join their country's emerging economy, government, and justice system. International non-governmental organizations should be encouraged to participate in helping Iraqi women to overcome the tragedies resulting from the massive crimes of the previous regime, including through provision of rehabilitative services. They should also create a direct link with local non-governmental organizations for programs that provide much-needed services for those tortured, raped, kidnapped or forced into prostitution. Electricity needs to be restored to a normal level, as it is a key component for security essential to the well-being of women and girls. This failure in restoring electricity contributes to increases in crime, including kidnapping in unlit urban and rural areas. The restoration of electricity also would contribute to the availability of clean water treatment centers, which are still unavailable in many parts of Iraq with the result that preventable diseases and high child mortality rates persist.

62. Part of the solution may be found in a new understanding of human security, which can provide the protection and focused attention on the plight of women and girls that is so often missing in post-conflict societies. Security Council resolution 1296 (2000) on the protection of civilians in armed conflict reaffirmed the Council's grave concern about the particular impact that armed conflict has on women, children and other vulnerable groups and the importance of fully addressing their special protection and assistance needs in the mandates of peacemaking, peacekeeping, and peace-building operations. It also expressed the Council's intention to call upon the parties to a conflict to make special arrangements to meet the protection and assistance requirements of women, children and other vulnerable groups. A "security network" of 13 countries, led by Canada, is advancing the "human security agenda" that underpins resolution 1296. The Government of Canada believes the best approach would be to promote the International Criminal Court, build domestic gender justice capacities, train police units on gender-based violence, strengthen domestic courts to enforce gender equality and punish gender violence, and support truth and reconciliation commissions. Another part of the solution should be more intensified and coordinated focus of the UN system and other

international partners on assisting, early in the post-conflict period, with strengthening national institutions, facilities, and programmes dedicated to providing adequate education, social services, and economic opportunities for women.

VII. Increased Participation of Women in Peace-making Processes and the Negotiation of Peace Agreements as well as in Implementation Mechanisms and Processes

A. Priority Requirements and Assistance Needed

63. Women must play a key role in the search for negotiated peace. Fundamentally-flawed negotiated peace agreements too often elevate male perpetrators of war crimes to high positions of power, immunize them from justice, and marginalize the role of women in the negotiations that vest so much power in such men. Women, including many widowed and single heads of households, as well as children, are left to sort out their lives without any assistance. Women are overlooked in processes to form a new government and its institutions, and thus are deprived of key positions, including in the legislative and judicial realms.

64. The experience of women in such post-conflict countries as Liberia, Sierra Leone, the Democratic Republic of the Congo, Burundi, and Iraq has not been altogether encouraging. Women expended great amounts of energy seeking ways to influence peace negotiations and to join negotiating delegations. But the end result usually was minimalist engagement and influence by women directly in the negotiations. The resourcefulness and tenacity of women in these countries, however, should be recognized. Sometimes at great personal risk, women chose to play positive roles by holding community meetings, establishing local organizations, visiting with domestic and foreign political authorities engaged in the peace negotiations, and criticizing the process when they believed it was departing from the best interests of society and of women. The Mano River Women Peace Network was an innovative effort whereby women in Liberia, Guinea, and Sierra Leone formed a common front to meet the menace by constructively engaging national leaders to use dialogue to resolve their differences. It is unknown precisely how much influence women finally exercised in the respective peace negotiations, but the poor representation of women in government bodies afterwards may indicate that such influence was not as strong as might have been hoped for by the women activists.

65. In Iraq, while some progress was achieved with the establishment of the Advisory Committee of Iraqi Women in 2003, the reality of the poor security situation in that country has been one factor in limiting the progress that could be made to advance the rights of women and include more of them in negotiations for and various roles in the transitional government. For example, laws from the previous regime curtailing the movement of women and their activities remain in force, a fact that the poor security situation offers little incentive to change. Women also have become the target of violent attacks because of their successful leadership in organizing civil society. Aside from full political participation, the German Government views the following areas as priority concerns in the reconstruction and rehabilitation of Iraq: women's economic empowerment, particularly for poor women, rural women and female heads of households; increasing Iraqi women's competitiveness in the labour market; decreasing the gender gap in education; addressing women's particular needs and

concerns in the shaping of socio-economic and institutional policy frameworks; recognizing and utilizing women's capacities and skills so that they can benefit equally from jobs and opportunities for capacity building and education; and the flourishing of a vibrant civil society which allows women from the grassroots to make their voices heard.

66. A particular problem in the aftermath of a conflict is the integration of women and girls in disarmament, demobilization and reintegration (DDR) programmes. Women combatants, as well as women coerced to provide support to male combatants (including as sexual slaves), need special attention in DDR programmes in order to enable them to receive proper benefits and to reintegrate them into society. In Sierra Leone, the demobilization of women and girls was extremely problematic. There, the programme was not designed to address the special needs and concerns of women and girls, and many commanders purposely excluded women and girls who had been in their units in order to appropriate larger benefits for themselves.

67. Lessons learned from both South Africa and Sierra Leone are that requirements for the successful integration of women and girls in DDR programmes include: (1) proper planning for demobilization, re-integration and rehabilitation; (2) education to deal with the stigma; (3) skills training appropriate for women and girls; (4) economic opportunities; and (5) integration of both victims and perpetrators. In order to achieve this, it is important that women be involved in designing and implementing such programmes.

B. Good Practices

68. In Liberia, women participated actively in the peace initiatives leading to the Accra Peace Accord. They also expanded their peace initiatives beyond the Liberian borders under the banner of the Mano River Women Peace Network. While men constituted about 90 percent of the fighting forces in the war, women chose to play positive roles such as peace ambassadors shuttling between the two sides of the de facto partitioned state in order to seek a peaceful settlement to the conflict at great risks to their lives. Referring to their efforts, the Special Representative of the Secretary-General for Liberia, Jacques Paul Klein, commented: "The women marched, they prayed, they persuaded the boys to lay down their arms, they forced their way into men only peace conferences to make their voices heard, they lobbied the heads of states in the ECOWAS region until eventually formal peace talks began in 3 June 2003." Lamentably, despite all the work undertaken by women to reach an agreement, the National Transitional Legislative Assembly has only four women among its 76 members and there are only three women ministers in the 21-member cabinet (see para. 54). In Sierra Leone, women also played a part in the achievement of peace after more than ten years of conflict. They participated fearlessly in conferences; they joined marches for return to constitutional government. A few attended peace talks and, all through the war, many were the breadwinners in the family. It is regrettable, though, that women's contributions have not been recognized. Notwithstanding the fact that the participation of women in the three peace accords of recent years in Sierra Leone was insufficient, the Lome Peace Agreement specifically provided that "given that women have been particularly victimized during the war, special attention shall be given to their needs and potential in formulating and implementing national rehabilitation, reconstruction, and

development programmes to enable them to play a central role in the moral, social and physical reconstruction of Sierra Leone".

69. In Liberia, an impressive number of over 12,000 women have been disarmed and demobilized. But despite the fact that the United Nations Mission in Liberia (UNMIL) has incorporated, with some success, gender sensitivities into its plans for dealing with women associated with the fighting forces, the issue remains one of quality and whether appropriate services are being provided at the disarming site. This is particularly difficult when there is only one female UN Military Observer out of 212 in UNMIL. In South Africa, the DDR programme exhibited a somewhat unique feature and outcome: it included women and girls who had been part of the liberation movements that came to power and thus they did not experience any stigma or shame associated with being with the fighting forces. The women were also integrated into the regular security forces and, in many cases, were appointed to high-ranking positions in the security forces.

VIII. Increased Participation of Women and Incorporation of Gender Dimensions (including Gender-Based Budgeting) in All Stages of the Conceptualization, Planning and Implementation of UN Peace Operations (including Rule of Law-Related Components), as well as in the Reporting, Evaluation and Monitoring of the Operations

A. Priority Requirements and Assistance Needed

70. The strategic and operational planning for post-conflict UN peace operations and donor initiatives is so important that women -- both national and international – must play a much greater role in these early efforts to restore basic institutions and services to meet the core needs of society and launch constructive initiatives. More women, including legal and gender justice specialists, as well as UN agencies such as UNIFEM, should be included in assessment missions, in part to strengthen early consultations with national stakeholders, particularly women, in the conflict-affected country. A code of conduct on gender justice and a policy on punishment for violators of the code should be developed for all personnel of UN peace operations as well as UN agencies and programmes operating in the field. Those employed in key supervisory functions in UN peace operations and UN agencies and programmes working in those theatres should be screened for gender justice sensitivity and properly trained on gender justice requirements and issues of concern to women in that locale. In addition, those peace operations and agencies and programmes should have adequate numbers of gender justice specialists on their respective staff.

71. In Kosovo, the gender dimension was considered far too late in the UN interim administration's efforts to resolve critical issues involving property, employment discrimination, refugees, and displaced persons. One of the main lessons learned in Kosovo is that gender justice considerations must be included very early in the assessment and planning stages of post-conflict UN missions and programmes and throughout the implementation phases. The success of all such programs requires the adoption of a coordinated and holistic approach from the outset, and depends at least in part on successfully weaving together early enough the surrounding social dynamic, the existing legal framework, the capacity of support institutions, and a clear governmental policy.

72. The United Nations still lags far behind in appointing women to SRSG and DSRSG positions in peace operations or, for that matter, heads of substantive components. It is not enough to have a gender advisor on the staff of a peace operation, particularly if that individual has a middle-level status (such as a P-4 level) rather then a Director-level posting comparable to other ranking staff. The appointment of women in the top management of a UN peace operation, the inclusion of a high-ranking Gender Adviser supported by a well-resourced Gender Unit, and the integration of gender justice specialists in critical components would convey the image of the United Nations as a gender-friendly organization and instill gender-sensitive thinking at the very top of and throughout the mission.

73. Each UN peace operation should be planned and assessed against a gender justice checklist drawn from Security Council resolution 1325. That would ensure increased high-level attention to gender issues both at the stage of the authorizing resolution and during subsequent related resolutions by the Security Council. There also should be far more substantive references to gender justice issues in reports of the Secretary-General to the Security Council on specific peace operations -- and in relevant thematic reports -- as well as in Security Council resolutions. Women's voices should be heard more frequently in meetings with Security Council members, including during Council missions to various conflict-affected regions.

74. For the objectives and calls of Security Council resolution 1325 to be effectively met, the gender-related objectives and programmes of a peace operation will have to be supported with sufficient financial and human resources and more women must be integrated into the command structure of the mission. Focus cannot simply be on the civilian staff and structure, because the Military Observers component, like the military contingent and civilian police components, is also woefully short of female members. Given the critical functions performed by the various components, including as role models to the local population, women should be included across all areas of the mission. It is difficult for a UN mission credibly to appeal to national transitional governments to achieve gender balance in their military and police forces when the UN military and police components are drastically imbalanced.

B. Good Practices

75. In Liberia, UNMIL appears to have addressed gender justice issues with great sensitivity and with imaginative initiatives, such as the establishment of a Rule of Law Committee that is chaired by the Deputy Special Representative for Operations and Rule of Law and includes members from all major substantive sections of the mission. The Rule of Law Committee seeks to find ways to enhance the functioning of the legal system, including by building judicial staff capacity, using Quick Impact Projects to renovate courts, building capacity among local law enforcement for gender justice issues, compiling a manual for gender trainers in the new Police Academy, and utilizing the Association of Women Lawyers to help prosecute rape cases. In Sierra Leone, the Human Rights Section of the UN Mission (UNAMSIL) has carried out programmes on women's rights and the rights of the child, which has raised the profile of these issues, but the process must be continuous. As mentioned previously, the establishment of family support units in almost all local command police stations has increased the number of women reporting cases of sexual and physical violence (see para. 56). All of these developments can be an example for other peacekeeping missions.

IX. Measures to Enhance Responsibility and Accountability of UN Peacekeeping and Humanitarian Personnel for Proper Behavior vis-à-vis the Female Population in Deployed Areas: Establishment of Comprehensive Policies and Procedures to Prevent and Punish Sexual Exploitation and Abuse

A. Priority Requirements and Assistance Needed

76. UN peacekeeping and humanitarian personnel have a special obligation not to violate the trust that women and girls -- many of whom are weakened and dependent on assistance in a post-conflict situation -- place in them. Not only is there no justification for any such UN personnel to engage in any sexual violence, abuse, or exploitation with respect to the local population, but there also should be zero tolerance of it given the position of trust UN personnel assume in that post-conflict society. Peacekeepers, particularly those in uniform as well as civilian police, become visible role models, admired and respected by the population, including by those carrying arms. Unfortunately, serious sexual misconduct, usually criminal in character, has been identified with such UN personnel (as well as other internationals) in post-conflict situations and severely undercut that respect. Simply put, gender justice must extend to such international guardians, namely, the UN peacekeeping and humanitarian personnel deployed to assist these post-conflict societies.

77. The issue of sexual exploitation and abuse of women and girls in such environments by UN personnel -- both civilian and uniformed peacekeeping personnel -- has been the focus of considerable and growing attention within the UN system. Sexual misconduct has plagued the UN peace operations in, for example, Sierra Leone (UNAMSIL) and the Democratic Republic of the Congo (MONUC) in recent years. Despite the fact that the majority of peacekeepers perform excellent work, there are cases where young girls and women have been violated rather than protected. Very young girls have been sold by parents to UN personnel for sex in order to access humanitarian aid they are already entitled to. Prostitution has been supported by some UN peacekeeping personnel and teenage girls have become the mothers of babies born of unions with UN peacekeepers. And yet, those in UN uniform are, or should be, the best placed to talk to the national belligerents about the illegality of rapes and other sexual violations. Thus, their own misconduct undercuts that vital role they themselves must play.

78. It will be particularly important in the future for investigations of such incidents involving UN personnel to be aggressively pursued with well-qualified investigators trained to deal with sexual-related crimes and for prompt punitive action to be taken where fault is established. Otherwise, the integrity and respect for UN peacekeeping and humanitarian personnel can hang in the balance. Since UN peacekeepers within military contingents are under the legal jurisdiction of their respective governments, responsibility for addressing any such serious charges resides in capitals as well as in mission headquarters. UN headquarters should ensure that contributing governments provide explanations and updates of case outcomes, and those governments should be prepared to pay reparations to victims for the wrongs of their respective personnel. Contributing governments need to understand that sexual abuse and crimes will and must be dealt with harshly, and that there should be follow-up court-martials or trials in home jurisdictions. The United Nations should waive immunity

for experts on mission and other staff charged with such crimes so that they may be prosecuted locally when that is feasible.

B. Good Practices

79. Through the joint efforts of the humanitarian and peacekeeping communities, in October 2003, the Secretary-General's bulletin on special measures for protection from sexual exploitation and sexual abuse was issued. This sets out minimum standards of behaviour for UN personnel and what measures are necessary to prevent sexual exploitation and abuse. At the field level, UN offices are now working to establish a coherent system for implementing the bulletin. Incident reporting and investigative and complaint procedures are being put in place to ensure a system of accountability. There are some concrete results: a number of cases have been brought to light and are being addressed. In Burundi and the Democratic Republic of the Congo, UN agencies and others are beginning to address the impunity that has existed around sexual violence. Peacekeeping missions have started to incorporate these issues into their operating procedures and rules. MONUC and UNAMSIL have adopted "Codes of Conduct regarding the Prohibition of Sexual Abuse and/or Exploitation". Several Member States have complemented the UN's policy by formally adopting policies requiring incorporation of minimum principles into their funding agreements with operational partners.

80. Thoughtful and progressive rules on sexual misconduct and crimes were developed by UNAMSIL for troops stationed in Sierra Leone. They have enhanced how peacekeeping missions should apply policy and procedure to prevent the exploitation of women. These policies and procedures should be expanded and included in the training modules and operating rules for all peacekeeping missions. In addition, those UN personnel in charge of refugee and displacement camps should be properly screened so as to ensure that any person who been involved in such violations is not employed in key positions of power over those who are vulnerable.

81. In Burundi, ONUB has made prevention of sexual exploitation and abuse by UN personnel a priority from the outset of the mission. ONUB has established a special office addressing standards and conduct for all personnel. The role of the special office is to assist the Head of Mission in the implementation of all disciplinary directives and to focus on prevention, identification of, and response to misconduct by all categories of peacekeepers.

X. Prioritization of Gender Justice within the UN System (including UN Peace Operations) and New Institutional Structures Needed to Accelerate Progress on the Gender Justice Front

A. Priority Requirements and Assistance Needed

82. While individual UN entities may focus on gender justice objectives, and some UN entities may have staff positions relating to gender justice, there remains a major deficiency in terms of adequate organizational structures and staffing dedicated to gender justice as well as a huge gap in adequate coordination and prioritization among UN entities to focus on and advance gender justice objectives in the field. It is not enough for UN entities to have a few specialized mid-level or low-

level staff specialists on gender justice. Too often the subject is pigeon-holed and rendered irrelevant to top-level decision-making or the staff specialist lacks sufficient rank to accomplish objectives. In addition to strengthening gender justice machinery at UN headquarters, more qualified women need to assume senior positions as Special Representatives of the Secretary-General and throughout peace operations in post-conflict countries, including as heads of components dealing with support to the legal and justice sectors of those countries.

83. In transitional post-conflict situations, the United Nations should have a dedicated structure or mechanism to focus on coordinated assistance to be provided for justice systems and related institutions of such countries, including those needed to address gender justice requirements. There should be a separate and adequately-resourced office in the UN system that deals with such rule of law and gender justice issues under a methodology that is subscribed to by all relevant UN players and that takes account of both (1) the needs and views of the national stakeholders concerned, and (2) the expertise and resources available outside the UN system. In this connection, particular attention needs to be paid to the issue of financing needed for UN programmes to adequately address gender justice requirements in post-conflict situations. Such programmes are almost always under-funded, so that what may appear as progressive and promising on paper and even organizationally, is actually far less impressive in terms of implementation due to the shortage of adequate funding.

84. Too often, initiatives launched in post-conflict countries fail due to lack of coordinated and continued international support that takes account of the views and priorities of national stakeholders, including women. It is essential that international funding and technical assistance be sustained for gender justice objectives throughout and beyond the immediate post-conflict period, which must include adequate consultation with a comprehensive range of national stakeholders, including women in the judicial/legal sectors as well as victims. This includes donor support and focused attention by the UN system to overcome the wide range of physical injuries, psychological and emotional trauma, and property damage suffered by women during armed conflicts.

85. UN bodies, regional organizations, and other international entities must collaborate more closely and frequently on gender justice objectives with local non-governmental organizations, relevant professional groups and academic institutions engaged in training women judges and lawyers, with networks of women spanning society, and with men to help change attitudes, curb domestic violence, and ensure the full participation of women in the post-conflict period and beyond. The *Partners for Gender Justice Initiative* has now been launched, being spearheaded by a group of interested Member States and some non-governmental organizations with ongoing UNIFEM and ILAC support, to further the gender justice agenda and forge "gender justice partnerships" in the context of post-conflict peace-building. Under the umbrella of this Initiative, the idea was raised to form a smaller expert group on gender justice that would develop proposals on how best to engage in post-conflict situations on gender justice issues. Senior UN officials should ensure that this Initiative is supported by their respective agencies, funds and programmes and that the participation of local and international non-governmental organizations is encouraged.

86. In addition, at least two other proposals have been advanced for the UN to make better progress in advancing gender justice in its work. These include the establishment of: (1) a task force

at the highest levels of the UN to seriously address mainstreaming gender into justice-related programmes; and (2) gender justice working groups at UN headquarters and in the field to support a more coordinated UN role in assisting post-conflict countries in the development of gender-sensitive judiciaries, criminal justice systems, legislation and constitutions, and to promote economic and social rights.

B. Good Practices

87. The United Nations Development Programme (UNDP) administers extensive justice sector reform programmes in conflict and post-conflict countries, which aim to improve access to timely and effective justice for all, especially the poor, women and other disadvantaged groups. UNDP seeks to improve access to justice in such ways as including NGOs in justice sector reform programmes, increasing the availability of legal and judicial information for judicial officers and the general public, strengthening national public defense systems, improving the quality of legal aid for the poor and other groups, and promoting alternative dispute resolution mechanisms. UNDP's policy of developing strategic partnerships in programme countries, together with UNIFEM's catalytic role and experience in fostering effective partnerships with grassroots women's organizations in such countries, provides opportunities for involving women and other civil society groups in initiatives to promote access to justice and justice reform.

88. The Office of the High Commissioner for Human Rights has intensified its efforts to monitor and report on gender-based and sexual violence, and human rights officers are now a standard component in new peace operations. In the framework of their mandates, special procedures of the Commission on Human Rights have paid particular attention to the occurrence of gender-based violence, the particular vulnerability of displaced women, the needs of women heads of households in times of war, the role of women in conflict resolution, and the situation of women in countries in transition. The Special Rapporteur on Violence Against Women plays a particularly important role in that regard.

89. In those multi-dimensional peacekeeping operations where the Department of Peacekeeping Operations (DPKO) is mandated to support post-conflict reconstruction efforts, it has dedicated and expanded its resource pool of staff working to promote the rule of law and gender equality. DPKO currently has rule of law components and gender units in nine out of the 17 missions under its direction. To support its work, DPKO is about to launch a Gender Resource Package for peace operations, which will provide guidance for incorporating a gender perspective in most functional areas of peace operations, with specific chapters addressing the police, the legal and judicial systems, and corrections.

90. The promotion of gender justice in post-conflict situations requires a multi-sectoral approach that draws on the expertise and contributions of all key stakeholders at the international level and, and most importantly, at the national level. At the international level, the individual mandates of UN bodies that are engaged in supporting transitions to peace require specific inputs relevant to gender justice at different stages of a transition process and a sustained commitment over the long term. This range of activities include, for example: (1) the collection of data and documentation of gender-based

violations; (2) protection and support to victims and survivors of gender-based violence, including witness protection programmes; (3) establishing transitional justice mechanisms; (4) training and capacity-building of judicial and law enforcement agents; (5) strengthening the advocacy and monitoring capacities of women's rights and civil society activists; (6) bringing constitutions and laws in line with international standards; and (7) working to transform institutions for the promotion of gender equality in post-conflict countries. The scope and sequence of gender-related activities will vary between missions and countries. This means that integrated planning and implementation, involving all relevant UN players -- including UNIFEM and other agencies operating in the field -- is vital, so that the range of activities undertaken in any one mission or country harnesses the comparative advantage of the different actors in order for efforts to be successful.

Conclusion

91. Permeating all of the discussions at the Conference on Gender Justice in Post-Conflict Situations were several realities that Dr. Nafis Sadik, Member of the Secretary-General's High-Level Panel on Threats, Challenges and Change, emphasized in her own remarks. Many conflict situations today result, in part, from a lack of justice, or perception of the lack of justice, by large segments of a population within a conflict zone. There is also the reality that vulnerabilities of women are dramatically increased during times of conflict and, more than that, that the rights of women are largely ignored and often seriously violated. The situation of women during and immediately after an armed conflict is all the more serious because, in such areas, there usually are many deficits already burdening women, including, among others, the lack of educational opportunities, the lack of access to essential public services, the lack of sufficient institutions to support maternal health care, the lack of protection from those infected with HIV/AIDS and other life-threatening diseases, and the lack of property and inheritance rights.

92. The UN system always must struggle to respond effectively to the many sensitive political and operational challenges arising during a post-conflict situation, whether in the context of a peace operation or a technical assistance programme. At the same time, as raised by the many national women stakeholders at the Conference, there is the dilemma -- which must be urgently tackled -- of how the UN system as a whole can address such challenges while also being responsive to the gender aspects of those issues and, more generally, being committed to reversing the vulnerable and victimized plight of women. All too often, political and operational gains come at the expense of gender-related needs and considerations. The concerns of women become all too easy to bargain away or simply overlook.

93. But now there have been enough reports and discussions about these obvious realities -- including the compelling gender justice concerns and appeals made by the national women stakeholders at the Conference -- to finally operationalize gender justice for the long term within the UN system. While UNIFEM, together with UNDP and ILAC, will proceed with active follow-up to these appeals, a necessary further step should be the establishment of a high-level mechanism to determine what issues and recommendations raised at the Conference require follow-up action by the UN system as a whole as well as by Member States, regional organizations, non-governmental organizations and other relevant actors. Given the scope of the issues concerned, there could be a

joint undertaking by the Security Council, the General Assembly, and the Economic and Social Council to support, or even spearhead, the establishment of such a high-level mechanism. One issue such a mechanism could address would be the need for the UN to have a dedicated structure -- such as a separate and adequately-resourced office (see para. 83) -- to coordinate assistance for justice systems and related institutions, including those needed to address gender justice requirements. There must emerge a methodology that is subscribed to by all relevant UN players and that takes account both of the needs and views of the national stakeholders concerned and the expertise and resources available outside the UN system.

94. In the words of the Deputy Secretary-General of the UN, Ms. Louise Frechette, at the opening of the Conference, "While women are often the first victims of armed conflict, they must also and always be recognized as a key to the solution. We must strive to integrate their concerns more effectively in peace processes worldwide and achieve women's full, equal and effective participation in those processes....Let us strive for all partners to work through a common national assessment of needs, capacities, aspirations and common national programmes of transitional justice, justice reform, and rule of law development. And let us ensure that women are engaged at all levels of that process."